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Sent: Monday, November 28, 2005 4:30 PM
To: ATR-Real Estate Workshop
Subject: Comments (Real Estate Workshp)

To Whom It May Concern:
Attached are my comments in PDF form.
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Comments – 11/28/05

From: Paul H. Slaugh, Jr.

Organization: Coldwell Banker Homesale Services Group

State: PA

The Justice Department complaint rests on an assumption that is not valid! This is simply that any and every individual or entity that wants access to the listing of a licensed, professional real estate broker has an absolute and unfettered right to gain such access. In every profession you can name it is a well-established principle of law that the work product of the professional is a proprietary product – owned by the professional who created it. In the face of such precedent, the federal government would never take the position that the work which the attorney, physician, accountant, engineer, architect or actuary created was subject to being shared on an unlimited basis without compensation. The property listing agreement, secured by the real estate broker from a customer should be treated no differently. It is unquestionably the work product of the broker who has secured it!

In order to gain a listing contract a broker is required to:

1. Spend considerable time, personal effort and money in marketing an industry presence,
2. Demonstrate a level of professional competence and market awareness that is attractive to the customer,
3. Create a marketing plan unique to the particular property being offered for sale,
4. Create an advertising plan suitable to the property owner, and
5. Successfully negotiate a contract with the owner.

Once this work product has been created by the real estate broker, he/she should have the right to determine how and with whom it will be shared. The federal government has no place in this decision process.

The supposed anti-competitive effects of the policies the complaint addresses are, likewise, invalid. There has been no suppression of technological innovation in the American real estate industry. Rather in the very recent past the industry has progressed from a “paper and ink” business model to one that fully embraces an internet marketing presence that is the envy of many other industries. There has been no reduction in competition on price and quality in the real estate industry. Average sales commissions have fallen from 7% to 5.1% in the past twenty years. Both the professional competency of real estate professional, and the quality of the personalized services he or she offers have never been at higher levels. The barriers to entry into the real estate profession are exceedingly low as evidenced by the fact that the number of licensed professionals has grown by nearly one million in the past decade. In addition, by no measure you can cite has there been any restriction of competition among real estate brokers nor is there likely to be any in the future.

The real estate industry is one of the most highly competitive industries in America today. An individual wanting to purchase a home in today’s market has at least six options as to how to do so; and the choice he or she selects is not in any way within the control of the real estate broker. Specifically, a buyer may elect to:

1. Purchase a home for sale directly from the homeowner,
2. Enter into a representation agreement with a broker to facilitate the purchase,
3. Contact the listing agent of a property directly,
4. Simultaneously work with any number of different agents or brokers,
5. Shop for their own account, either over the internet, or otherwise, or
6. Seek advice from other independent professionals (like bankers, attorneys, other buyers and sellers, etc.) that may result in a referral to a professional Realtor.

It is hard to understand how you could assert a lack of competition in the face of such a myriad array of consumer choices.

In summary, the complaint represents a misguided attempt to enhance the powers of the federal government in a situation where it does not belong and is not needed to protect the rights of the American consumer.

Sincerely,
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